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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,124	11/21/2003	Eric Holzle		1123

Eric Holzle  
788 Park Shore Dr Ste F20  
Naples, FL 34103-3780

EXAMINER
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NEGIN, RUSSELL SCOTT

ART UNIT	PAPER NUMBER
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1631

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
30 DAYS	01/30/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

20070120

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

The amendment filed on 17 August 2006 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the two sets of claims are distinct and require undue burden to search both sets of claims.

The originally disclosed invention and the invention filed on 17 August 2006 are directed to related processes. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have different uses.

The originally filed set of claims nowhere requires sexual or reproductive interests. The dating in the originally filed invention can occur without sexual relations (i.e. getting together with a group of friends to donate blood). The addition of sexual or reproductive interests changes the scope of the claim such that it falls into the category of a different invention. It would be undue burden to search both inventions due to the absence of the sexual requirement of the originally filed set of claims.

Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the central PTO Fax Center. The faxing of such pages must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993)(See 37 CFR § 1.6(d)). The Central PTO Fax Center Number is (571) 273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell Negin, Ph.D., whose telephone number is (571) 272-1083. The examiner can normally be reached on Monday-Friday from 7am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Andrew Wang, Supervisory Patent Examiner, can be reached at (571) 272-0811.

Information regarding the status of the application may be obtained from the Patent Application Information Retrieval

(PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information on the PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*John S. Brusca 22 January 2007*

JOHN S. BRUSCA, PH.D  
PRIMARY EXAMINER

RSN  
22 January 2007

*[Signature]*

*22 January 2007*